#### Executive Summary – Enforcement Matter – Case No. 46556 Rickey Repka and Barbara Repka dba Repka's Grocery RN101211670

Docket No. 2013-0637-PWS-E

#### **Order Type:**

Findings Agreed Order

#### Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

#### Media:

**PWS** 

#### **Small Business:**

Yes

#### Location(s) Where Violation(s) Occurred:

Repka's Grocery, 8481 Buller Road, Waller County

#### **Type of Operation:**

Public water supply

#### **Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: August 16, 2013

Comments Received: No

## **Penalty Information**

**Total Penalty Assessed: \$1,483** 

Amount Deferred for Expedited Settlement: \$0 Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$1,483 Total Due to General Revenue: \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

## **Compliance History Classifications:**

Person/CN - N/A

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

#### Executive Summary – Enforcement Matter – Case No. 46556 Rickey Repka and Barbara Repka dba Repka's Grocery RN101211670 Docket No. 2013-0637-PWS-E

#### **Investigation Information**

Complaint Date(s): N/A Complaint Information: N/A

Date(s) of Investigation: February 11, 2013

Date(s) of NOE(s): March 20, 2013

#### Violation Information

- 1. Failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive sample result on a routine sample and failed to provide public notification regarding the failure to collect repeat distribution coliform samples [30 Tex. Admin. Code §290.109(c)(3)(A)(ii) and §290.122(c)(2)(A)].
- 2. Failed to collect raw groundwater source *Escherichia coli* samples from all active sources within 24 hours of notification of a distribution total coliform-positive result on a routine sample and failed to provide public notification regarding the failure to collect raw groundwater source *Escherichia coli* samples [30 Tex. Admin. Code §290.109(c)(4)(B) and §290.122(c)(2)(A)].
- 3. Failed to collect five routine distribution coliform samples the month following a coliform-positive sample result and failed to provide public notification regarding the failure to collect five routine distribution coliform samples [30 Tex. Admin. Code §290.109(c)(2)(F) and §290.122(c)(2)(A)].

## Corrective Actions/Technical Requirements

## Corrective Action(s) Completed:

N/A

#### **Technical Requirements:**

The Order will require Respondents to:

- a. Within 30 days:
- i. Begin complying with applicable coliform monitoring requirements by collecting repeat and increase coliform distribution samples, collecting raw groundwater source *Escherichia coli* samples for each groundwater source in use at the time the distribution coliform-positive sample was collected, and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting; and

#### Executive Summary – Enforcement Matter – Case No. 46556 Rickey Repka and Barbara Repka dba Repka's Grocery RN101211670 Docket No. 2013-0637-PWS-E

ii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility.

- b. Within 45 days, submit written certification as described in Ordering Provision c. to demonstrate compliance with a.ii.
- c. Within 195 days, submit written certification demonstrating compliance with Ordering Provision a.i.

#### Litigation Information

Date Petition(s) Filed: N/A Date Answer(s) Filed: N/A SOAH Referral Date: N/A Hearing Date(s): N/A Settlement Date: N/A

#### **Contact Information**

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Sam Keller, Enforcement Division, Enforcement

Team 2, MC 169, (512) 239-2678; Candy Garrett, Enforcement Division, MC 219,

(512) 239-1456

TCEQ SEP Coordinator: N/A

Respondents: Rickey Repka, Owner, Repka's Grocery, 8481 Buller Road, Brookshire,

Tevas 77/22

Barbara Repka, Owner, Repka's Grocery, 8481 Buller Road, Brookshire, Texas 77423

Respondent's Attorney: N/A

#### Penalty Calculation Worksheet (PCW) PCW Revision August 3, 2011 Policy Revision 3 (September 2011) Assigned 25-Mar-2013 **EPA Due** 31-Mar-2013 Screening 28-Mar-2013 PCW 28-Mar-2013 RESPONDENT/FACILITY INFORMATION Respondent Rickey Repka and Barbara Repka dba Repka's Grocery Reg. Ent. Ref. No. RN101211670 Major/Minor Source Minor Facility/Site Region 12-Houston CASE INFORMATION No. of Violations 3 **Enf./Case ID No.** 46556 Docket No. 2013-0637-PWS-E Order Type Findings Government/Non-Profit No Media Program(s) Public Water Supply Enf. Coordinator Sam Keller Multi-Media EC's Team Enforcement Team 2 Maximum \$1,000 Admin. Penalty \$ Limit Minimum Penalty Calculation Section \$750 **TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1 ADJUSTMENTS (+/-) TO SUBTOTAL 1 Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage. \$262 Subtotals 2, 3, & 7 **Compliance History** 35.0% Enhancement Enhancement for seven NOVs with same/similar violations. Notes \$0 Subtotal 4 Culpability No 0.0% Enhancement The Respondents do not meet the culpability criteria. Notes Subtotal 5 \$0 Good Faith Effort to Comply Total Adjustments \$0 Subtotal 6 0.0% Enhancement\* **Economic Benefit** Total EB Amounts \*Capped at the Total EB \$ Amount \$477 Approx. Cost of Compliance \$545 \$1,012 Final Subtotal **SUM OF SUBTOTALS 1-7** \$471 Adjustment 46.5% OTHER FACTORS AS JUSTICE MAY REQUIRE Reduces or enhances the Final Subtotal by the indicated percentage. Enhancement to recover the avoided costs of compliance associated with Notes Violation Nos. 1 through 3. \$1,483 Final Penalty Amount \$1,483 Final Assessed Penalty STATUTORY LIMIT ADJUSTMENT \$0 0.0% Adjustment

(Enter number only; e.g. 20 for 20% reduction.)

No deferral is recommended for Findings Orders.

**DEFERRAL** 

Notes

**PAYABLE PENALTY** 

Reduces the Final Assessed Penalty by the indicted percentage.

Reduction

\$1,483

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Screening Date 28-Mar-2013

**Docket No.** 2013-0637-PWS-E

**Respondent** Rickey Repka and Barbara Repka dba Repka's Grocery

Case ID No. 46556

Reg. Ent. Reference No. RN101211670

Media [Statute] Public Water Supply Enf. Coordinator Sam Keller

pliance Histo Component	Number of	Enter Number Here	Adjust
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	7	35%
	Other written NOVs	0 :	0%
· · · · · · · · · · · · · · · · · · ·	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
and Consent Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audika	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	··· <b>O</b>	0%
Audits	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
	·	ase Enter Yes or No	
	Environmental management systems in place for one year or more	No	0%
Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
ounc.	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%
	Adjustment Pere		
at Violator (	Subtotal 3) and the recovering open access as the property of the control of the		
N/A	Adjustment Per	centage (Subt	otal 3)
oliance Histo	ry Person Classification (Subtotal 7)		
N/A	Adjustment Perd	centage (Subt	otal 7)
oliance Histo	ry Summary		
Compliance History Notes	Enhancement for seven NOVs with same/similar violations.		
	Total Compliance History Adjustment Percentage (S	Subtotals 2 3	2 & 7)

Respondent Rickey Repta and Barbara Repka disa Repka's Grocery Case LD No. 4955  Reg. Ent. Reference No. ex101213670  Media [Statute] Dublic Water Supply Enf. Coordinator Violation Number  Rule Cite(s)  30 Tex. Admin. Code §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(A)  Failed so collect a set of repeat distribution coliform samples within 24 hours of being northed of a total coliform positive sample result on a routine sample and failed to provide public notificant negariding the failure to collect repeat distribution coliform samples within 24 hours of being northed of a total coliform positive sample result on a routine sample and failed to provide public notificant negariding the failure to provide repeat distribution coliform samples within 24 hours of being northed of a total coliform positive sample result on a routine sample and failed to provide public notificant negariding the failure to provide repeat distribution coliform samples for the months of July and November 2012.  Service new York State of Property and Human Health Matrix Harm Release Major Moderate Minor Percent 15.0%  >>Programmatic Matrix Failure to property conduct repeat sampling may allow persons served by the Facility to be exposed to undetected contaminants that would exceed layers procedure of human health.  Sample sevent 15.000  Wiolation Events  Number of Violation Events 2	Scre	ening Date	28-Mar-2013	Dock	et No. 2013-0637-PWS-E	PCW
Reg. Ent. Reference No. RNJ012121670 Media [Statute] Dublic Water Supply Enf. Coordinator Sam Keller Violation Number 1 Rule Cite(s)  30 Tex. Admin. Code §§ 290.109(c/(3)(A)(ii) and 290.122(c)(2)(A)  Failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive sample result on a routine sample and failed to provide public notification regarding the failure to collect repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive sample result on a routine sample and failed to provide public notification regarding the failure to collect repeat distribution coliform samples for the months of July and flovember 2012.  >> Environmental, Property and Human Health Matrix Harm Harm Harm Harm Harm Harm Harm Harm				arbara Repka dba Repka	's Grocery	
Media   Statute   Public Water Supply   Enf. Coordinator   Sam Keller	- 4 · · · · · · · · · · · · · · · · · ·					PCW Revision August 3, 2011
Enf. Coordinator Sam Keller Violation Number I 30 Tex. Admin. Code §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(A)  Failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform somples within 24 hours of distribution coliform samples for the marks of July and November 2012.  **Base Penalty**  **Servironmental, Property and Human Health Matrix**  **Harm**  **Noder**  **Release**  **Major**  **Moderate**  **Moderate**  **Moderate**  **Moderate**  **Moderate**  **Minor**  **Percent**  **Percent**  **J.000**  **Percent**  **J.00%*  **Matrix**  **Palsification**  **Matrix**  **Palsification**  **Matrix**  **Palsification**  **Moderate**						
Violation Number   1   30 Tex. Admin. Code §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(A)						
Rule Cite(s)   30 Tex. Admin. Code §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(A)						
Failed to collect a set of repeat distribution colliform samples within 24 hours of being notified of a total conform-positive sample setult on a routine sample and failed to provide public notification regarding the failure to to Potential failed to provide public notification regarding the failure to to Potential Setup for the months of July and November 2012.    Sase Penalty   \$1,000	***************************************					
Violation Description   Desc		Rule Cite(s)	30 Tex. Adn	nin. Code §§ 290.109(c)	(3)(A)(ii) and 290.122(c)(2)(	A)
Violation Description   Desc						
Violation Description   Desc						
Sase Penalty   S1,000		i	Failed to collect a	set of repeat distribution	coliform samples within 24 h	nours of
Sase Penalty   S1,000	Violatio	n Description				
Sase Penalty   \$1,000						
>> Environmental, Property and Human Health Matrix   Harm   Release   Major   Moderate   Minor						
>> Environmental, Property and Human Health Matrix   Harm   Release   Major   Moderate   Minor			IL			
Number of Violation Events   September					Base	Penalty \$1,000
Number of Violation Events   September		<u> </u>				
Release Major Moderate Minor Actual Potential X Moderate Minor Percent 15.0%  >>Programmatic Matrix Failure to properly conduct repeat sampling may allow persons served by the Facility to be exposed to undetected contaminants that would exceed levels protective of human health.    Matrix   Failure to properly conduct repeat sampling may allow persons served by the Facility to be exposed to undetected contaminants that would exceed levels protective of human health.    Adjustment	>> Environme	ntal, Proper				
OR Petrial X Percent 15.0%  >>Programmatic Matrix Falsification Major Moderate Minor Percent 0.0%  Matrix Falsification Major Moderate Minor Percent 0.0%  Matrix Falsification Major Moderate Minor Percent 0.0%  Matrix Falsification Percent 0.0%  Matrix Falsification Falsification Percent 0.0%  Matrix Falsification Falsification Percent 0.0%  Matrix Falsification Percent 0.0%  Adjustment \$850   S150  Violation Events  Number of Violation Events 2 61 Number of violation days  Maily Weekly Weekly Weekly Weekly Weekly Weekly Semiannual annual single event Semiannual annual single event Semiannual Annual Single event Wiolation Percent Offer Extraordinary Ordinary N/A Weekly Weekly Weekly Semiannual Annual Single event Wiolation Setzent Offer Extraordinary Ordinary N/A Weekly Weekl		Release				
>>Programmatic Matrix Fallure to properly conduct repeat sampling may allow persons served by the Facility to be exposed to undetected contaminants that would exceed levels protective of human health.  **Adjustment**  **S50*  **Adjustment**  **S50*  **Violation Events*  Number of Violation Events*  **Dumber of Violation Base Penalty*  **S300*  **Two monthly events are recommended.**  **Two monthly events are recommended.*	OR	Actual				
Falsification   Major   Moderate   Minor   Percent   0.0%		Potential	x		<b>Percent</b> 15.0%	
Matrix   Pallure to properly conduct repeat sampling may allow persons served by the Facility to be exposed to undetected contaminants that would exceed levels protective of human health.    Adjustment   \$850				ACOLES PEROLES ES DESENSES ES SECTES ES ESCRETA		
Matrix Failure to properly conduct repeat sampling may allow persons served by the Facility to be exposed to undetected contaminants that would exceed levels protective of human health.    Adjustment	>>Programma		Major Mo	derate Minor		
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Violation Events  Number of Violation Events 2 61 Number of violation days  daily weekly monthly x violation Base Penalty \$300  Two monthly events are recommended.  Two monthly events are recommended.  Good Faith Efforts to Comply 0.0% Reduction electron for Extraordinary Ordinary N/A x (mark with x) N/A x (mark with x) N/A x (mark with x) Notes  The Respondents do not meet the good faith criteria for this violation.  Violation Subtotal \$300  Economic Benefit (EB) for this violation Statutory Limit Test  Estimated EB Amount \$228 Violation Final Penalty Total 5593	1-200 (Sept. 2011) 11 (11 (11 (11 (11 (11 (11 (11 (11 (	exposed to	properly conduct repe	nants that would exceed	levels protective of human h	ealth.
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Number of Violation Events 2 61 Number of violation days  daily weekly monthly x your monthly x quarterly semiannual annual single event  Two monthly events are recommended.  Two monthly events are recommended.  Good Faith Efforts to Comply 0.0% Reduction before Nov NOV to EDPRP/Settlement Offer Extraordinary Ordinary N/A x (mark with x) Notes The Respondents do not meet the good faith criteria for this violation.  Violation Subtotal \$300  Economic Benefit (EB) for this violation Statutory Limit Test  Estimated EB Amount \$228 Violation Final Penalty Total \$593						\$150
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weekly monthly x quarterly semiannual annual single event   Two monthly events are recommended.  Two monthly events are recommended.  Good Faith Efforts to Comply 0.0% Reduction Sefore NOV NOV to EDPRP/Settlement Offer Extraordinary Ordinary N/A x (mark with x) Notes The Respondents do not meet the good faith criteria for this violation.  Feconomic Benefit (EB) for this violation Statutory Limit Test  Estimated EB Amount \$228 Violation Final Penalty Total \$593						
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Two monthly events are recommended.  Good Faith Efforts to Comply  Before NOV NOV to EDPRP/Settlement Offer Extraordinary Ordinary N/A x (mark with x) The Respondents do not meet the good faith criteria for this violation.  Violation Subtotal \$300  Economic Benefit (EB) for this violation  Statutory Limit Test Estimated EB Amount \$228 Violation Final Penalty Total \$593		with an x			,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	
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Good Faith Efforts to Comply    Before NOV   NOV to EDPRP/Settlement Offer			single event		1	
Good Faith Efforts to Comply    Before NOV   NOV to EDPRP/Settlement Offer	•	,				
Good Faith Efforts to Comply    Before NOV   NOV to EDPRP/Settlement Offer			Two	onthly avents are recom	mended	
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Notes The Respondents do not meet the good faith criteria for this violation.  Violation Subtotal \$300  Economic Benefit (EB) for this violation  Statutory Limit Test  Estimated EB Amount \$228 Violation Final Penalty Total \$593						
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Economic Benefit (EB) for this violation  Estimated EB Amount \$228 Violation Final Penalty Total \$593				this viol	auon.	
Economic Benefit (EB) for this violation  Estimated EB Amount \$228 Violation Final Penalty Total \$593			L.			0. I. L.
Estimated EB Amount \$228 Violation Final Penalty Total \$593					Violation :	Suptotal \$300
Estimated EB Amount \$228 Violation Final Penalty Total \$593	Economic Poss	fit (FR) for	this violation		Statutory Limit	Test
Little Library Control of the Contro	Economic Deue	III (EB) IUI	tina viviativii		250-100-1000-1-2-3-16-40-40-40-40-40-40-40-40-40-40-40-40-40-	
This violation Final Assessed Penalty (adjusted for limits) \$593		Estimate	ed EB Amount	\$228	Violation Final Pena	ity Total \$593
This violation than Assessed tenarcy (adjusted to minus)				hie violation Final Acc	essed Penalty (adjusted fo	r limits) \$593
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# Economic Benefit Worksheet Respondent Rickey Repka and Barbara Repka dba Repka's Grocery Case ID No. 46556

Reg. Ent. Reference No. RN101211670

Media Public Water Supply

Violation No. 1

Percent Interest Years of Depreciation 5.0 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount

Item Description No commas or \$

#### **Delayed Costs**

Equipment
Buildings
Other (as needed)
Engineering/construction
Land
Record Keeping System

Record Keeping System Training/Sampling Remediation/Disposal Permit Costs Other (as needed)

			0.00	<b>\$</b> 0	\$0	¢Ω
	الــــــان	L		<u> </u>	>>∪	30
			0.00	\$0	\$0	\$0
			0.00	\$0	\$0	\$0
			0.00	\$0	\$0	\$0
			0.00	\$0	n/a	\$0
			0.00	\$0	n/a	\$0
			0.00	\$0	n/a	\$0
			0.00	\$0	n/a	\$0
			0.00	\$0	n/a	\$0
\$100	11-Feb-2013	31-Dec-2013	0.88	\$4	n/a	\$4
The dela				it to implement im	provements to the	Facility's

The delayed cost includes the estimated amount to implement improvements to the Facility's process/procedures, guidance, training, and/or oversight to ensure that public notice is posted and reported to the Executive Director, calculated from the date of the record review to the estimated date of compliance.

Notes for DELAYED costs

Avoided Costs
Disposal
Personnel
Inspection/Reporting/Sampling
Supplies/equipment
Financial Assurance [2]
ONE-TIME avoided costs [3]
Other (as needed)

ANNUAL	IZE [1] avoided	costs before	entering	item (except	for one-time avoid	ed costs)
			0.00	\$0	\$0	\$0
			0.00	\$0	\$0	\$0
			0.00	\$0	\$0	\$0
			0.00	\$0	\$0	\$0
			0.00	\$0	\$0	\$0
\$200	19-Jul-2012	14-Nov-2012	1.24	\$12	\$200	\$212
\$10	20-Jul-2012	15-Feb-2013	1.49	\$1	\$10	\$11

Notes for AVOIDED costs

The avoided cost includes the estimated amount to collect all required repeat samples (\$25 per sample x 8 missed samples), calculated for the 24-hour period after the coliform-positive results. The other avoided cost includes the estimated amount to provide public notification (\$5 per notice x 2 notifications), calculated for the period public notices should have been provided.

Approx. Cost of Compliance	\$310	TOTAL \$228

Scre	ening Date	8-Mar-2013 <b>Dock</b> e	et No. 2013-0637-PWS-E	PCW
. 1	Respondent	Rickey Repka and Barbara Repka dba Repka's	Grocery	Policy Revision 3 (September 2011)
	Case ID No.		4	PCW Revision August 3, 2011
Reg. Ent. Re				
		ublic Water Supply		
	Coordinator ation Number	Sam Keller		^
AIOI	Rule Cite(s)	2 1		
	naic onco	30 Tex. Admin. Code §§ 290.109(c)	(4)(B) and 290.122(c)(2)(A)	
Violatio	on Description	Failed to collect raw groundwater source Est sources within 24 hours of notification of a dis on a routine sample and failed to provide pub collect raw groundwater source Escherichia co	stribution total coliform-positive of the following the fo	ve result allure to
			Base	Penalty \$1,000
>> Environme	ntal, Proper	y and Human Health Matrix Harm		
	Release	Major Moderate Minor		
OR	Actual		,	
	Potential	X _	Percent 15.0%	
>>Programma	Falsification	Major Moderate Minor		
			Percent 0.0%	
	L.			
Matrix	Failure to cond	ct raw groundwater source monitoring could i	result in persons served by the	e Facility
Notes	being exposed	o undetected contaminants which would exce	ed levels protective of human	health.
			Adjustment	\$850
	) (A)			
	-			\$150
Violation Event		en in en en en els de la chieftiana denn, na service en els els manaciàs com antende esta en estabacione.		Control Control Control
VIOIALIUII EVEIII				ANNO ARAKAS SIZ
	Number of V	olation Events 1	31 Number of violation da	ays
	4	SCHOOL CALCAN STORE OF		
		daily		
		weekly x		
	mark only one	quarterly	Violation Base	Penalty \$150
	with an x	semiannual		
		annual	•	
		single event		
		One monthly event is recomm	ended.	:
				<del>+0</del>
Good Faith Effo	orts to Comp		most Offer	\$0
		Before NOV NOV to EDPRP/Settler	Then one	
		Ordinary		
		N/A x (mark with x)		
		The Respondents do not-meet	the good faith criteria for	
		Notes this viola		
			Violation S	Subtotal \$150
			7101011011 5	
<b>Economic Bene</b>	fit (EB) for	nis violation	Statutory Limit 7	rest .
			Violation Final Penalt	ty Total \$297
	Estimate	EB Amount \$30		3
		This violation Final Asse	essed Penalty (adjusted for	· limits) \$297
E PAGO CO CARROLLA SANTA BUDARNA RABA A GALPO PARAGAS				

#### **Economic Benefit Worksheet** Respondent Rickey Repka and Barbara Repka dba Repka's Grocery **Case ID No.** 46556 Reg. Ent. Reference No. RN101211670 Years of Media Public Water Supply **Percent Interest** Depreciation Violation No. 2 Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs **EB Amount** Item Description No commas or \$ **Delayed Costs** \$0 0.00 \$0 \$0 Equipment 0.00 \$0 \$0 \$0 Buildings Other (as needed) 0.00 \$0 \$0 \$0 0.00 \$0 \$0 \$0 Engineering/construction n/a \$0 0.00 \$0 Land \$0 0.00 Record Keeping System \$0 n/a \$0 Training/Sampling 0.00 \$0 n/a Remediation/Disposal 0.00 \$0 n/a \$0 \$0 **Permit Costs** 0.00 \$0 n/a 0.00 n/a \$0 Other (as needed) The delayed costs of compliance for this violation are associated with the Economic Benefit for Violation Notes for DELAYED costs No. 1. ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) **Avoided Costs** 0.00 \$0 Disposal \$0 0.00 \$0 \$0 Personnel \$0 Inspection/Reporting/Sampling 0.00 \$0 \$0 \$0 0.00 \$0 \$0 Supplies/equipment \$0 Financial Assurance [2] 0.00 \$0 \$0 20-Jul-2012 0.00 20-Oct-2012 1.17 ONE-TIME avoided costs [3] \$0 \$25 20-Jul-2012 Other (as needed) The avoided cost includes the estimated amount to collect one raw groundwater source sample (\$25 per sample), calculated for the 24-hour period after the coliform-positive result. The other avoided cost Notes for AVOIDED costs includes the estimated amount to provide public notification (\$5 per notice), calculated for the the period public notice should have been provided. \$30 TOTAL \$30

Approx. Cost of Compliance

Scr	eening Date	28-Mar-2013		Docke	t No. 2013-0637-PWS-E		PCW
		Rickey Repka and	d Barbara Repk	a dba Repka's	Grocery		3 (September 2011)
	Case ID No.					PCW Re	vision August 3, 2011
Reg. Ent. Re							
		Public Water Sup	ply				
	Coordinator lation Number				•		
Vio	Rule Cite(s)						
	Raic dite(5)	30 Tex	. Admin. Code	§§ 290.109(c)	(2)(F) and 290.122(c)(2)(/	4)	
Violatio	on Description	coliform-positive failed to prov distribution c	e sample result ide public notifi oliform samples	for the month leation regardir s for the month	form samples the month form samples the month for soft August and December on the failure to collect five the failure to collect five of August 2012. Specificate required samples each management of the form of August 2012.	2012 and routine ally, the	
					Ва	se Penalty	\$1,000
>> Environme	ntal, Proper	ty and Humai	n Health Ma Harm	itrix			
	Release	Major	Moderate	Minor			
OR	Actual	Market Committee of the			·	-	
	Potential	×			Percent 15.0%	2	
>>Programma							
	Falsification	Major	Moderate Ir	Minor	Percent 0.0%	7	
		L		الــــــــــــــــــــــــــــــــــــ	Percent 0.070	<b>L</b> i	
Matrix Notes	Failure to co exposed to	nduct increased of undetected cont	oliform monitor aminants that	ing may allow would exceed l	persons served by the Faci evels protective of human	health.	
	L						
					Adjustment	\$850	
						_	\$150
						Ļ	7.50
Violation Event	ts						
				F			
	Number of V	iolation Events	2		Number of violation	n days	
		daily					
		weekly monthly	<del></del>				
	mark only one	quarterly	X		Violation Bas	se Penalty	\$300
	with an x	semiannual					<u></u>
		annual					
		single event					
						-	
		TW	o monthly ever	nts are recomm	nenaea.	. :	
	L						
Good Faith Effo	orts to Comp	olv	0.0% Red	luction			\$0
1	•			to EDPRP/Settlen	ment Offer		
		Extraordinary					
		Ordinary					
		N/A	x (ma	rk with x)		1	
		T	he Respondent	s do not meet	the good faith criteria for		
		Notes	•	this violat			
		L				П	
		-				n Subtotal _	\$300
Economic Bene		· · · · · · · · · · · · · · · · · · ·			Statutory Limi		+F03
	Estimate	d EB Amount		\$219	Violation Final Per	iaity i otal	\$593
			This violati	on Final Asse	ssed Penalty (adjusted	for limits)	\$593
- 5-510 40 74 5 77 5 7 5 1 5 1 5 1 5 1 5 1 5 1 5 1 5						. The state of the	

leg. Ent. Reference No.							Years of
	Public Water S	Supply				<b>Percent Interest</b>	Depreciation
Violation No.	<b>.3</b> 2014:05:04:11:11:11:11		e the his a beauth and		nia Slovateljena (1874)	5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	with the second	EB Amount
Item Description							
Delayed Costs	s	kp. sko. Nekonasia ia sa		adik i star		Gilian dia stempoliment	38.28
Equipment				0.00	\$0	\$0	\$0
Buildings			` `	0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	40
		JL		0.00	<b>⊅</b> U	11/4	\$0
Other (as needed)  Notes for DELAYED costs				0.00	\$0	n/a n/a	\$0 \$0
Notes for DELAYED costs	ANNUAL	IZE [1] avoided	costs before	0.00	\$0	n/a	\$0
Notes for DELAYED costs  Avoided Costs	ANNUAL	IZE [1] avoided	costs before	0.00	\$0		\$0
Notes for DELAYED costs  Avoided Costs  Disposal	ANNUAL	IZE [1] avoided	costs before	0.00 enterir	\$0 ng item (except i	n/a for one-time avoid	\$0 led costs)
Notes for DELAYED costs  Avoided Costs  Disposal  Personnel	ANNUAL	IZE [1] avoided	costs before	0.00	\$0 ng item (except i	n/a for one-time avoid \$0	\$0
Notes for DELAYED costs  Avoided Costs Disposal Personnel pection/Reporting/Sampling	ANNUAL	IZE [1] avoided	costs before	0.00 enterir 0.00 0.00	\$0 ng item (except ) \$0 \$0	n/a for one-time avoic \$0 \$0	\$0 led costs) \$0 \$0
Notes for DELAYED costs  Avoided Costs Disposal Personnel pection/Reporting/Sampling Supplies/equipment	ANNUAL	IZE [1] avoided	costs before	0.00 enterir 0.00 0.00 0.00	\$0  ng item (except i	n/a for one-time avoic \$0 \$0 \$0 \$0	\$0 led costs) \$0 \$0 \$0
Avoided Costs Disposal Personnel pection/Reporting/Sampling Supplies/equipment Financial Assurance [2]	ANNUAL \$200	IZE [1] avoided	costs before	0.00 enterir 0.00 0.00 0.00 0.00	\$0  ng item (except 1  \$0  \$0  \$0  \$0  \$0	n/a for one-time avoic \$0 \$0 \$0 \$0 \$0 \$0	\$0 led costs) \$0 \$0 \$0 \$0
Avoided Costs  Avoided Costs  Disposal  Personnel  pection/Reporting/Sampling  Supplies/equipment  Financial Assurance [2]				0.00 enterir 0.00 0.00 0.00 0.00	\$0 ng item (except ) \$0 \$0 \$0 \$0 \$0	n/a  for one-time avoid \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0   <b>led costs)</b>   \$0   \$0   \$0   \$0   \$0
Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3]	\$200 \$5 The avoided per sample x	1-Aug-2012 1-Sep-2012 cost includes the ease samples cost includes the	31-Dec-2012 30-Nov-2012 estimated amou s), calculated for estimated amo	0.00  enterin 0.00 0.00 0.00 0.00 1.33 1.16  ent neces	\$0  fig item (except for some some some some some some some some	n/a  for one-time avoic \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0   so   \$0   \$0   \$0   \$0   \$213   \$5   ampling, (\$25   equired. The

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## Compliance History Report

**PUBLISHED** Compliance History Report for CN602455941, RN101211670, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent Owner/Operator:	, or CN602455941, Rickey Repka	Classification:	NOT APPLICABLE	Rating	: N/A
Regulated Entity:	RN101211670, REPKA'S GROCERY	Classification:	NOT APPLICABLE	Rating	: N/A
Complexity Points:	N/A	Repeat Violator:	N/A		
CH Group:	01 - Gas Stations with convenience St	ores and other Gas Stations		***************************************	
Location:	8481 BULLER ROAD, WALLER COUNTY	, TEXAS			
	REGION 12 - HOUSTON				
TCEQ Region:	REGION 12 - NOOSTON				<del>, ,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,</del>
ID Number(s): PUBLIC WATER SYSTEM/	SUPPLY REGISTRATION 2370079	l, 2012 Rating Year	; 2012 <b>Rat</b>	ing Date:	09/01/2012
ID Number(s): PUBLIC WATER SYSTEM/S Compliance History Pe	SUPPLY REGISTRATION 2370079  riod: September 01, 2007 to August 3:		: 2012 Rat	ing Date:	09/01/2012
ID Number(s): PUBLIC WATER SYSTEM/S Compliance History Per Date Compliance History	supply REGISTRATION 2370079  riod: September 01, 2007 to August 3: ry Report Prepared: March 26, 2		: 2012 Rat	ing Date:	09/01/2012
ID Number(s): PUBLIC WATER SYSTEM/S Compliance History Per Date Compliance History Agency Decision Requi	supply REGISTRATION 2370079  riod: September 01, 2007 to August 3: ry Report Prepared: March 26, 2 ring Compliance History: Enfor	013 rcement	: 2012 Rat	ing Date:	09/01/2012
ID Number(s): PUBLIC WATER SYSTEM/S Compliance History Per Date Compliance Histo Agency Decision Requi	supply REGISTRATION 2370079  riod: September 01, 2007 to August 3: ry Report Prepared: March 26, 2 ring Compliance History: Enfor	013 rement		ing Date:	09/01/2012

#### Site and Owner/Operator History:

1) Has the site been in existence and/or operation for the full five year compliance period?

YES

2) Has there been a (known) change in ownership/operator of the site during the compliance period?

NO

3) If YES for #2, who is the current owner/operator?

N/A

4) If YES for #2, who was/were the prior owner(s)/operator(s)?

N/A

5) If YES, when did the change(s) in owner or operator occur?

N/A

#### Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

**B.** Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

Date:

10/11/2012

(1059741)

CN602455941

Classification:

Moderate

Citation:

Self Report?

30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)

30 TAC Chapter 290, SubChapter F 290.109(e)

Description:

TCR Repeat MR Violation 07/2012 - Failure to collect and/or submit any repeats

following a coliform found result within the required timeline.

11/06/2012 2 Date:

(1059741)

CN602455941

Self Report? NO

Classification:

Moderate

Citation:

30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)

30 TAC Chapter 290, SubChapter F 290.109(e)

Description:

TCR Increase MR Violation 08/2012 - Failure to collect and/or submit within the

required timeline all of the 5 distribution samples following a coliform found month.

3 Date:

12/06/2012

(1059741)

CN602455941

Self Report?

NO

Classification:

Moderate

Citation:

30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

30 TAC Chapter 290, SubChapter F 290.122(f)

Description:

JUL/2012 TCR Repeat MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 07/2012.

Self Report?

NO

Classification:

Classification:

Classification:

Moderate

Citation:

30 TAC Chapter 290, SubChapter F 290.109(c)(4)(B)

30 TAC Chapter 290, SubChapter F 290.109(e)

Description:

GWR Triggered Source MR Violation 07/2012 - Failure to collect and/or report any triggered source monitoring sample(s) following a coliform found result for 1 source(s)

within the required timeline.

Date:

12/14/2012 NO

(1059741)

CN602455941

Moderate

Self Report? Citation:

30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description:

30 TAC Chapter 290, SubChapter F 290.122(f) JUL/2012 GWR Triggered Source Monitoring PN Posting and Reporting Violation - Failure

to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct triggered source monitoring for the

month of 07/2012.

5

Date:

01/22/2013

(1059741)

CN602455941

Moderate

Citation:

Self Report?

30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A) 30 TAC Chapter 290, SubChapter F 290.122(f)

Description:

AUG/2012 TCR Increase MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 08/2012.

6

Date:

01/29/2013

(1059741)

CN602455941

Self Report?

Classification: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)

Citation: 30 TAC Chapter 290, SubChapter F 290.109(e)

Description:

TCR Repeat MR Violation 11/2012 - Failure to collect and/or submit any repeats

following a coliform found result within the required timeline.

7

Date:

02/11/2013

(1059741)

CN602455941 Classification:

Moderate

Moderate

Self Report? Citation:

30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)

30 TAC Chapter 290, SubChapter F 290.109(e)

Description:

TCR Increase MR Violation 12/2012 - Failure to collect and/or submit within the required timeline all of the 5 distribution samples following a coliform found month. F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/I

J. Early compliance:

N/A

**Sites Outside of Texas:** 

N/A

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# Compliance History Report

**PUBLISHED** Compliance History Report for CN600654727, RN101211670, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator:	CN600654727, Barbar	ra Repka	Classification:	NOT APPLICAE	BLE Rating	<b>j:</b> N/A
Regulated Entity:	RN101211670, REPKA	A'S GROCERY	Classification:	NOT APPLICAE	BLE Rating	<b>J:</b> N/A
Complexity Points:	N/A		Repeat Violator	: N/A		
CH Group:	01 - Gas Stations with	n convenience Store	es and other Gas Stations			
ocation:	8481 BULLER ROAD, V	WALLER COUNTY, T	CEXAS			
CEQ Region:	REGION 12 - HOUSTO	DN .				
D Number(s): PUBLIC WATER SYSTEM/SUP Compliance History Period		2370079 007 to August 31, 2	Rating Yea	r: 2012	Rating Date:	09/01/2012
Date Compliance History F	Report Prepared:	March 27, 201	3			
gency Decision Requiring	J Compliance Histo	ory: Enforce	ment			
Component Period Selecte	d: March 26, 200	08 to March 26, 201	13			
CEQ Staff Member to Con	tact for Additiona	Information R	Regarding This Comp	liance Histo	ry.	
Name: Sam Keller			Phone:	(512) 239-267	'8	
				λ.		
Site and Owner/Operat	or History:					
) Has the site been in existence ) Has there been a (known) cha				d?	YES NO	

3) If YES for #2, who is the current owner/operator?

N/A

4) If YES for #2, who was/were the prior owner(s)/operator(s)?

N/A

5) If YES, when did the change(s) in owner or operator occur?

N/A

#### Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

**B.** Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1

Date:

10/11/2012 :? NO (1059741)

CN600654727

Classification:

Moderate

Citation

Self Report?

30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)

30 TAC Chapter 290, SubChapter F 290.109(e)

TCR Repeat MR Violation 07/2012 - Failure to collect and/or submit any repeats Description:

following a coliform found result within the required timeline.

2 Date: 11/06/2012

Self Report? NO (1059741)

CN600654727

Classification:

Classification:

Citation:

30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)

30 TAC Chapter 290, SubChapter F 290.109(e)

Description:

TCR Increase MR Violation 08/2012 - Failure to collect and/or submit within the

required timeline all of the 5 distribution samples following a coliform found month.

3

12/06/2012 Date:

(1059741)

CN600654727

Self Report? NO

30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

30 TAC Chapter 290, SubChapter F 290.122(f)

Description:

Citation:

JUL/2012 TCR Repeat MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 07/2012.

Self Report?

NO

NO

NO

Classification:

Moderate

Moderate

Moderate

Moderate

Citation:

30 TAC Chapter 290, SubChapter F 290.109(c)(4)(B)

30 TAC Chapter 290, SubChapter F 290.109(e)

Description:

GWR Triggered Source MR Violation 07/2012 - Failure to collect and/or report any triggered source monitoring sample(s) following a coliform found result for 1 source(s)

within the required timeline.

Date:

12/14/2012 (1059741) CN600654727

Classification:

Classification:

Classification:

Self Report? Citation:

30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

30 TAC Chapter 290, SubChapter F 290.122(f)

Description:

JUL/2012 GWR Triggered Source Monitoring PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct triggered source monitoring for the

month of 07/2012.

5

01/22/2013

(1059741)

CN600654727

Moderate

Self Report? Citation:

Date:

30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

30 TAC Chapter 290, SubChapter F 290.122(f)

Description:

AUG/2012 TCR Increase MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 08/2012.

6

Date:

01/29/2013

(1059741)

CN600654727

Self Report?

NO

30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)

Moderate

Citation:

30 TAC Chapter 290, SubChapter F 290,109(e)

Description:

TCR Repeat MR Violation 11/2012 - Failure to collect and/or submit any repeats

following a coliform found result within the required timeline.

7

Date:

02/11/2013

(1059741)

CN600654727 Classification:

Moderate

Citation:

Self Report?

30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)

30 TAC Chapter 290, SubChapter F 290.109(e)

Description:

TCR Increase MR Violation 12/2012 - Failure to collect and/or submit within the required timeline all of the 5 distribution samples following a coliform found month. F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

**Sites Outside of Texas:** 

N/A

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	
RICKEY REPKA AND	§	TEXAS COMMISSION ON
BARBARA REPKA	§	
DBA REPKA'S GROCERY	§	
RN101211670	§	ENVIRONMENTAL QUALITY

#### AGREED ORDER DOCKET NO. 2013-0637-PWS-E

At its \_\_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Rickey Repka and Barbara Repka dba Repka's Grocery (the "Respondents") under the authority of Tex. Health & Safety Code ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondents presented this agreement to the Commission.

The Respondents understand that they have certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondents agree to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondents.

The Commission makes the following Findings of Fact and Conclusions of Law:

#### I. FINDINGS OF FACT

- 1. The Respondents own and operate a public water supply at 8481 Buller Road in Waller County, Texas (the "Facility") that has two service connections and serves at least 25 people per day for at least 60 days per year.
- 2. During a record review conducted on February 11, 2013, TCEQ staff documented that the Respondents did not collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive sample result on a routine sample and did not provide public notification regarding the failure to collect repeat distribution coliform samples for the months of July and November 2012.
- 3. During a record review conducted on February 11, 2013, TCEQ staff documented that the Respondents did not collect raw groundwater source *Escherichia coli* samples from all active sources within 24 hours of notification of a distribution total coliform-positive sample and did not provide public notification regarding the failure to collect raw groundwater source *Escherichia coli* samples for the month of July 2012.
- 4. During a record review conducted on February 11, 2013, TCEQ staff documented that the Respondents collected only one of the five routine distribution coliform for the months of August and December 2012 and did not provide public notification regarding the failure to collect five routine distribution coliform samples for the month of August 2012.
- 5. The Respondents received notice of the violations on March 25, 2013.

#### II. CONCLUSIONS OF LAW

- 1. The Respondents are subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
- 2. As evidenced by Findings of Fact No. 2, the Respondents failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive sample result on a routine sample and failed to provide public notification regarding the failure to collect repeat distribution coliform samples, in violation of 30 Tex. Admin. Code §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(A).
- 3. As evidenced by Findings of Fact No. 3, the Respondents failed to collect raw groundwater source *Escherichia coli* samples from all active sources within 24 hours of notification of a distribution total coliform-positive result on a routine sample and failed to provide public notification regarding the failure to collect raw groundwater source *Escherichia coli* samples, in violation of 30 Tex. ADMIN. CODE §§ 290.109(c)(4)(B) and 290.122(c)(2)(A).
- 4. As evidenced by Findings of Fact No. 4, the Respondents failed to collect five routine distribution coliform samples the month following a coliform-positive sample result and failed to provide public notification regarding the failure to collect five routine

distribution coliform samples, in violation of 30 Tex. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(c)(2)(A).

- 5. Pursuant to Tex. Health & Safety Code § 341.049, the Commission has the authority to assess an administrative penalty against the Respondents for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
- 6. An administrative penalty in the amount of One Thousand Four Hundred Eighty-Three Dollars (\$1,483) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in Tex. Health & Safety Code § 341.049(b). The Respondents have paid the One Thousand Four Hundred Eighty-Three Dollar (\$1,483) administrative penalty.

#### III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

The Respondents are assessed an administrative penalty in the amount of One Thousand Four Hundred Eighty-Three Dollars (\$1,483) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondents' compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Rickey Repka and Barbara Repka dba Repka's Grocery, Docket No. 2013-0637-PWS-E" to:

Financial Administration Division, Revenue Operations Section Attention: Cashier's Office, MC 214 Texas Commission on Environmental Quality P.O. Box 13088 Austin, Texas 78711-3088

2. The Respondents are jointly and severally liable for the violations documented in this Agreed Order, and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Agreed Order.

- 3. The Respondents shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order:
    - i. Begin complying with applicable coliform monitoring requirements by collecting repeat and increase coliform distribution samples, collecting raw groundwater source *Escherichia coli* samples for each groundwater source in use at the time the distribution coliform-positive sample was collected, and providing water that meets the provisions regarding microbial contaminants, in accordance with 30 Tex. Admin. Code § 290.109. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting; and
    - ii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility, in accordance with 30 TEX. ADMIN. CODE § 290.122.
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 3.c. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a.ii; and
  - c. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a.i. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team Enforcement Division, MC 149A Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087

with a copy to:

Public Drinking Water Section Manager Water Supply Division, MC 155 Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087l

- 4. The provisions of this Agreed Order shall apply to and be binding upon the Respondents. The Respondents are ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
- 5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondents shall be made in writing to the Executive Director. Extensions are not effective until the Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
- 6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondents if the Executive Director determines that the Respondents have not complied with one or more of the terms or conditions in this Agreed Order.
- 7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
- 8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondents in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
- 9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing",

and "written" shall have the meanings assigned to them under Tex. Bus. Org. Code § 1.002.

The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 Tex. Admin. Code § 70.10(b) and Tex. Gov't Code § 2001.142.

#### SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission	
For the Executive Director	Pli 8 13 Date
and Barbara Repka dba Repka's Gro of Rickey Repka and Barbara Rep	understand the attached Agreed Order in the matter of Rickey Repka ocery. I am authorized to agree to the attached Agreed Order on behalf aka dba Repka's Grocery, and do agree to the specified terms and that the TCEQ, in accepting payment for the penalty amount, is ation.
Grocery waive certain procedural violations addressed by this Agreed hearing, and the right to appeal. I a	this Agreed Order, Rickey Repka and Barbara Repka dba Repka's rights, including, but not limited to, the right to formal notice of lorder, notice of an evidentiary hearing, the right to an evidentiary gree to the terms of the Agreed Order in lieu of an evidentiary hearing. nd final adjudication by the Commission of the violations set forth in
<ul> <li>to timely pay the penalty amount, m</li> <li>A negative impact on compl</li> <li>Greater scrutiny of any perm</li> <li>Referral of this case to the penalties, and/or attorney for any form</li> <li>Increased penalties in any form</li> <li>Automatic referral to the Att</li> <li>TCEQ seeking other relief as</li> </ul>	iance history; nit applications submitted; Attorney General's Office for contempt, injunctive relief, additional ees, or to a collection agency; ature enforcement actions; torney General's Office of any future enforcement actions; and
a. W. Qupka	ou)nex
Signature	Date
R.W. Repka	6/23/13
Name (Printed or typed)	Title
Authorized Representative of	
Rickey Repka dba Repka's Grocery	
SarbaraKepka	6/24/13
Signature	Date
Barbara Repka	owner
Name (Printed or typed)	Title
Authorized Representative of	
Barbara Repka dba Repka's Grocery	

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.